

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MISSOURI  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,	)	
	)	
	)	
Plaintiff,	)	
	)	Case No.
vs.	)	14-CR-3106-MDH-25
	)	
	)	
DAVID A. FLOYD,	)	
	)	
Defendant.	)	

SENTENCING  
BEFORE THE HONORABLE M. DOUGLAS HARPOOL  
MONDAY, MAY 22, 2017; 1:15 P.M.  
SPRINGFIELD, MISSOURI

APPEARANCES:

FOR THE PLAINTIFF:	MR. RANDALL D. EGGERT UNITED STATES ATTORNEY'S OFFICE 901 St. Louis, Ste. 500 Springfield, MO 65806
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FOR THE DEFENDANT:	MR. RYAN D. REYNOLDS ATTORNEY AT LAW 1323 E. Montclair Springfield, MO 65804
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COURT REPORTER:	MS. JEANNINE RANKIN, RPR, CSR UNITED STATES DISTRICT COURT 222 N. Hammons Parkway Springfield, MO 65806
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USA v DAVID A. FLOYD

CASE NO. 14-CR-3106-MDH-25

SENTENCING

May 22, 2017

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THE COURT: We're here for the sentencing of David  
A. Floyd.

Who appears on behalf of the United States?

MR. EGGERT: Randy Eggert for the United States,  
Your Honor.

THE COURT: And on behalf the defendant?

MR. REYNOLDS: Ryan Reynolds for David Floyd who  
appears in person.

THE COURT: Mr. Floyd, would you stand.

My name is Doug Harpool. I'm a federal district  
judge. It is my responsibility this afternoon to sentence you  
for the crime of conspiracy to distribute 500 grams or more of  
a mixture or substance containing a detectible amount of  
methamphetamine. That is a Class A felony. That is the  
highest class.

What we're going to do is the law instructs me to  
sentence you to a sentence which is sufficient but not greater  
than necessary to meet the objectives of the sentencing laws.  
So first thing we'll do is we'll see if we can agree on what  
those laws are. That requires me to first of all talk about

1 what the Congress has passed, what they say the punishment for  
2 someone who's committed your crime can be. We'll then look at  
3 the U.S. Sentencing Guidelines. They will give us a guideline  
4 sentence of what the guideline says a sentence would typically  
5 be. Then we'll listen to factors that the lawyers will argue  
6 and recommend that are described in Title 18, Section 3553(a)  
7 which allow this Court to depart or vary from the guideline.  
8 Your sentence can be above or below the guideline as long as  
9 it's an authorized sentence. When that's done, I'll give you  
10 a chance to say something to me by way of allocution. When  
11 that's finished, I'll make a final decision.

12 I want to assure you of something before we get  
13 started. I've read everything in the file. The lawyers have  
14 both submitted lengthy suggestions regarding sentencing. I've  
15 read every word of it. I read carefully your presentence  
16 investigation report. Have you read that, your presentence  
17 investigation report?

18 THE DEFENDANT: Some of it.

19 THE COURT: Well, do you want --

20 THE DEFENDANT: Oh, yes, I've read all of my  
21 presentence investigation report. I'm sorry, Your Honor.

22 THE COURT: That's all right.

23 So I'm familiar with that. I've read the plea  
24 agreement. So I'm familiar with the issues but I haven't made  
25 that final decision. That's something I always hold till

1 after we go through the steps that I've outlined for you. I  
2 won't make that final decision until after I hear what you  
3 have to say by way of allocution. But I do want to assure you  
4 I've read everything that has been submitted to me and I will  
5 consider everything that's been submitted to me.

6 I told you earlier, I talked about 3553 factors and  
7 Title 18. I should mention that the lawyers will emphasize  
8 those factors in the law that are most important and they've  
9 already done so in their briefing. So we may not mention  
10 every factor by name in what we say here in hearing but it's  
11 been considered either by brief or it will be considered by me  
12 as I make that final decision.

13 Do you understand what we're going to do?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: Go ahead and be seated, then, we'll get  
16 started.

17 Counsel, the authorized sentence, I should say, for  
18 the crime that the defendant is guilty -- has pled guilty to  
19 in Count 1 of the indictment is not less than ten years, as  
20 much as life in prison, in addition, supervised release of not  
21 less than five and as much as life, payment of \$100 special  
22 assessment and potential fine as high as \$10 million.

23 Any disagreement that that is the authorized  
24 sentence?

25 MR. EGGERT: No, Your Honor, not from the

1 government.

2 MR. REYNOLDS: Not from the defense.

3 THE COURT: All right. Let's now talk about  
4 sentencing guidelines.

5 I should have said it a minute ago. I paused a  
6 minute ago and the reason I did is that technically the  
7 defendant pled guilty to Count 1 of the second superseding  
8 indictment but that is -- the punishment I just read is  
9 accurate for that.

10 Let's talk about the guidelines. The presentence  
11 investigation report concludes that the offense category --  
12 the offense level of this defendant is 35 and the criminal  
13 history category is two.

14 Let's talk first about criminal history category. I  
15 know the defendant had some objections I think to the criminal  
16 history entries into the presentence investigation report and  
17 one of them was Paragraph 71. It's my understanding the  
18 defendant is going to withdraw that objection.

19 MR. REYNOLDS: That's correct, Your Honor.

20 THE COURT: That had to do with whether or not the  
21 ten-year restriction had been met; is that right?

22 MR. REYNOLDS: That's correct, Judge.

23 THE COURT: So that will be shown as withdrawn by  
24 the defendant. However, Paragraph 80, I understand that the  
25 description of the offense as contained in the presentence

1 investigation report is found not to be up-to-date and  
2 accurate; is that correct, Mr. Reynolds?

3 MR. REYNOLDS: That is correct, Judge.

4 THE COURT: What do you believe the actual offense  
5 is, offense of conviction?

6 MR. REYNOLDS: Judge, the actual offense of  
7 conviction is for receiving stolen, a misdemeanor which would  
8 count for one point; however, the presentence report had only  
9 appointed one point before. So even though the points don't  
10 change and the criminal history doesn't change, the offense of  
11 conviction is a lower classification of offense.

12 THE COURT: The only crime for which he was  
13 convicted relevant to Paragraph 80 of the presentence  
14 investigation report is the receiving stolen property and not  
15 tampering with a motor vehicle?

16 MR. REYNOLDS: That's correct, Your Honor.

17 THE COURT: Does our probation office agree with  
18 that?

19 MS. POTTER: I agree, Your Honor, but I think it's  
20 still two counts.

21 THE COURT: Two counts of receiving stolen property?

22 MS. POTTER: That's my understanding when I look at  
23 the judgment.

24 THE COURT: We all agree it would still count as one  
25 for purposes of counting criminal history?

1 MR. REYNOLDS: Yes, Judge.

2 MS. POTTER: Correct.

3 THE COURT: And in the end this defendant would  
4 still be a criminal history category two?

5 MR. REYNOLDS: That is correct.

6 THE COURT: All right. Let's now talk about the  
7 offense level which the presentence investigation concludes at  
8 five. I know the defendant in their briefing had objections  
9 and I think the first objection was to the base offense level.  
10 Do you wish to be heard on that other than what's in  
11 your briefing, Mr. Reynolds?

12 MR. REYNOLDS: No, Judge. Just for the record, we  
13 know that the law is against us on this one; however, we want  
14 to preserve that in case of any future appeal or in case the  
15 law changed to make sure it wasn't included as an admission.

16 THE COURT: For the record, the objection is to  
17 Paragraph 47, the base offense level. Do you have an  
18 assertion as to what you think the base level should be that  
19 you want on the record?

20 MR. REYNOLDS: Judge, I believe it should be 35 --  
21 or 32. Thirty-two.

22 THE COURT: All right. But it is a 38.

23 Mr. Eggert, do you wish to be heard on this issue?

24 MR. EGGERT: Your Honor, I think I established in  
25 the sentencing memorandum our argument. I would point out

1 that the sentencing memorandum also contains factual  
2 assertions that Mr. Reynolds has indicated to me that he would  
3 agree that if I called an officer, he would testify consistent  
4 with those factual assertions. Those factual assertions  
5 coupled also with the defendant's own statements in the plea  
6 agreement indicate the defendant received approximately half a  
7 kilogram of methamphetamine prior to his arrest in 2014. He  
8 also owed Ms. Harmon an additional \$5,000 for more  
9 methamphetamine. That coupled with the frequency of times  
10 that he obtained methamphetamine from the conspiracy over the  
11 long period of time indicates that it was reasonably  
12 foreseeable to the defendant this was a large-scale conspiracy  
13 that could have distributed in excess of 45 kilograms. That's  
14 the standard that has to be met under both the law and the  
15 sentencing guidelines.

16 Thank you.

17 MR. REYNOLDS: That's correct, Judge. We would  
18 agree that he would testify consistent and stipulate to the  
19 contents of testimony as summarized in the brief; however, we  
20 still wanted to preserve the issue of whether it was  
21 reasonably foreseeable or not. The law clearly is on the  
22 government's side and at this time it doesn't look like that's  
23 going to change.

24 THE COURT: The Court will find that the parties  
25 have stipulated that had the officer cited in the government's



1 sentencing memorandum testified, he would have supported the  
2 quantity described in that and that there's no reason to call  
3 him as a witness. The Court also notes that defendant  
4 maintains their objection to Paragraph 47. Notwithstanding  
5 that objection, the Court will overrule it. I do think that  
6 under the current status of the law the 38 is the proper base  
7 offense.

8 Any other objections I need to address?

9 MR. REYNOLDS: No, Judge. The remaining objections  
10 that we filed don't affect the guidelines in any way. We were  
11 just pointing out the factual inaccuracies as Mr. Floyd sees  
12 them for the purposes of helping to understand his character.

13 THE COURT: Those objections will be noted and no  
14 admissions will be made regarding those other issues that are  
15 touched upon to the admissions. The Court will adopt a 35  
16 offense level, a criminal history of two, which would make the  
17 sentencing range under the guideline 188 months to 235 months.

18 Mr. Floyd, I'm sure this has been explained to you,  
19 but in the back of the sentencing commission booklet adopted  
20 by the U.S. Sentencing Commission there is a chart. Along one  
21 edge is the offense level starting low numbers to high numbers  
22 and above the top there is criminal history category from low  
23 category to high category. And what you do is you meet -- for  
24 your case, you go down to number 35 and you go over to the  
25 second column, which is the criminal history of two, and

1 that's where I got the number 188 to 235 months. I want to  
2 make sure that's clear on the record and you understand that.

3 All right. So the Court will adopt that as my  
4 guideline sentence. That also calls, by the way, for  
5 supervised release of five years, a fine of between 20,000 and  
6 10 million, and a \$100 special assessment.

7 Now that we've talked about what the authorized  
8 sentence is and now that we've talked about what the guideline  
9 sentence is, I'm going to see what the lawyers want to say or  
10 supplement from their briefing on the issue of the 3553(a)  
11 factors. Again, they've covered it in their briefing but if  
12 they want to supplement it, I give them that chance.

13 Mr. Eggert.

14 MR. EGGERT: Your Honor, pursuant to the sentencing  
15 memorandum we are asking for a sentence of 174 months.  
16 Typically in a case where the defendant is not a cooperator, I  
17 ask for a sentence in the advisory guideline range but for  
18 issues of proportionality, I feel compelled in this case to  
19 ask for a sentence somewhat less than 188 months to be fair to  
20 the defendant and also to make certain that his actions  
21 reflect proportionately with other defendants that have been  
22 sentenced in this case.

23 I want to focus on three factors very quickly.  
24 They're all articulated also in the sentencing memorandum.  
25 First, the nature and circumstances of the offense. This is a

1 very large-scale methamphetamine conspiracy and this was not a  
2 bit player in that conspiracy. Mr. Floyd possessed 322 grams  
3 of methamphetamine that was seized from him by the police. He  
4 also owed Kenna Harmon an additional \$5,000 for  
5 methamphetamine that he had previously purchased from her. He  
6 was a regular customer of Ms. Harmon's. So he did not just  
7 sell methamphetamine one time and get caught or he only had  
8 one seizure and was apprehended; he was a regular customer of  
9 the Harmons and it's his actions that make a conspiracy like  
10 this possible and work.

11 And as I've said numerous times in other sentencing  
12 hearings, this was one of the largest methamphetamine  
13 conspiracies I've had the opportunity to work on as a  
14 prosecutor in the Southern Division of the Western District of  
15 Missouri. This defendant was right smack in the middle of it  
16 with his distribution activities.

17 Secondly, the defendant's history and  
18 characteristics. He is not a criminal history category one.  
19 He has prior felony convictions: burglary, possession of  
20 misdemeanor amounts of marijuana, and tampering with a motor  
21 vehicle. While his convictions I would agree are not as  
22 severe as some of the other people that the Court has  
23 sentenced, they are felony -- there are at least two felony  
24 convictions and they reflect the defendant has a history of  
25 criminality that deserves an adequate form of punishment for

1 this case that respects and reflects his criminal history and  
2 his criminal nature.

3           Then lastly I do want to talk about the sentencing  
4 disparities and proportionality. We've now had several  
5 defendants sentenced in this case. I mentioned several in my  
6 sentencing memorandum. Gregory Jones received a sentence of  
7 180 months. He had a criminal history category of five which  
8 is greater than this defendant but the base offense levels are  
9 exactly the same and they are both mid-level dealers of  
10 methamphetamine in the conspiracy. Jeffrey Gardner is also a  
11 mid-level dealer and the same kind of relationship with  
12 Ms. Harmon that Mr. Floyd had. He had a base offense level of  
13 35 and a criminal history category of six.

14           So both Mr. Jones and Mr. Gardner had greater  
15 criminal histories but every other respect they're the same as  
16 Mr. Floyd: they're mid-level distributors of methamphetamine.  
17 That's why I'm asking for a sentence less than what the Court  
18 gave both of those defendants. They both received sentences  
19 of 180 months. I think Mr. Gardner (sic) should receive a  
20 lesser sentence and so I'm asking for a sentence of 174  
21 months.

22           In relation to Mr. Allen, he received a total  
23 sentence of 180 months. He had a criminal history category of  
24 one but he also possessed a firearm. That's what caused his  
25 sentence to be where it was.

1           Adversely, on the other side you have Jeffrey Hatch  
2 who is sentenced to a sentence of 144 months. Again,  
3 Mr. Hatch was a similar defendant to this defendant in that  
4 they were mid-level distributors of methamphetamine.  
5 Mr. Hatch's criminal history was a three which is just  
6 slightly higher than Mr. Floyd's which was a level two;  
7 however, Mr. Hatch provided good and useful information to the  
8 government that was helpful in furthering the investigation.  
9 Mr. Floyd -- for reasons we've already talked about in  
10 chambers -- I don't think deserves that kind of recognition  
11 that Mr. Hatch got.

12           In addition, Ms. Paluczak received a sentence of 132  
13 months. She had a criminal history category of four which was  
14 slightly higher than this defendant but she also had the same  
15 base offense level. Again, she's the same kind of dealer,  
16 mid-level dealer that Mr. Floyd was but she received a  
17 sentence of 132 months again for basically the same reasons  
18 that Mr. Hatch did.

19           In the end, proportionality is kind of a -- you feel  
20 it out. And the Court has ultimate discretion in this case  
21 but the government's argument is that the defendant in this  
22 case should receive a sentence less than 180 months, which was  
23 the sentence that Mr. Jones and Mr. Gardner received, but he  
24 should receive a sentence greater than 144 months, which is  
25 the sentence that Mr. Hatch received. So I ask for a sentence

1 of 174 months but I can certainly see the Court's point of  
2 sentencing the defendant to a sentence of maybe 168 months,  
3 which is 14 years. Somewhere in there would be a fair  
4 sentence the government thinks would be proportionate with the  
5 other defendants that have previously been sentenced.

6 I would say as an aside, the current Justice  
7 Department has issued a -- recently issued a memo that  
8 indicates that government attorneys should ask for a sentence  
9 within the advisory guideline range unless circumstances  
10 require otherwise. The reason why I'm asking for a sentence  
11 outside the advisory guideline range in this case is for  
12 proportionality concerns that I have raised with the Court.  
13 So I am asking for a sentence of 174 months, Your Honor.

14 Thank you.

15 THE COURT: Mr. Reynolds, I've read in detail your  
16 sentencing memorandum but you may supplement at this time if  
17 you wish.

18 MR. REYNOLDS: Thank you, Judge.

19 I'd just like to respond first, we appreciate the  
20 government's position, first of all, in that they do believe  
21 that a departure is also appropriate here. I know that he's  
22 asking for a 174-month sentence but also stated somewhere in  
23 144 to 174 because of proportionality was also a fair range.  
24 Being bound by that new memo to ask for the guideline  
25 sentence, 174 is still an appreciated departure in his

1 recommendation.

2           However, in noting the culpability of some other  
3 co-defendants, while we're not as privy to what they may have  
4 done or said throughout the course of this case, there are  
5 several defendants that I referenced in this memo who received  
6 either minimum or below the minimum for one reason or another  
7 even though they were upper-level participants or maybe they  
8 possessed firearms.

9           Anthony Massoni handled the money. He was sentenced  
10 to 36 months on three counts to be served concurrently.  
11 Mr. Floyd is here today on one count. Mr. Floyd never  
12 possessed a firearm as part of this case.

13           Joseph Allen, he got the minimum 120-month sentence.  
14 He was also a mid-level participant like Mr. Floyd. He had a  
15 count for a firearm. Again, Mr. Floyd didn't have a firearm.  
16 He should be considered less culpable, less dangerous even  
17 though there's no way he would get less than a 120-month  
18 sentence. That's why we feel that 120 months is appropriate.

19           Carlos Tapia, he got under the minimum for 108  
20 months on Count 1 even though he was an upper-level  
21 participant, delivered more than 100 pounds of methamphetamine  
22 as part of this conspiracy. If Mr. Floyd got the minimum, he  
23 would still serve 12 more months than Carlos Tapia who did  
24 these trips carrying hundreds of pounds, at least on one time  
25 or various times up to 100 pounds being held responsible for.

1           Justin Owens, 30 months on Count 1. He was a  
2 low-level participant but he obtained 2-ounce quantities at a  
3 time whereas Mr. Floyd obtained half that much at a time  
4 according to the evidence.

5           Then Branden Malen, 24 months on Count 1 and 58  
6 served concurrently. Count 58 was a firearm offense. He was  
7 also possession of a firearm by a drug user. So all these  
8 sentences for some of the co-defendants are lower than the  
9 minimum that Mr. Floyd is subject to and can't escape.

10           For these reasons -- oh, and also to respond to the  
11 government when he was talking about the factors that mattered  
12 to him, the nature and circumstances, the next thing he went  
13 though was the criminal history. He stated there was two  
14 felonies. As we discussed in the objections, that tampering  
15 first was limited to receiving stolen. So even if he was  
16 originally arrested with that tampering first, he doesn't have  
17 that second felony on his record. Like I said, that doesn't  
18 change the guidelines because for some reason it was given the  
19 right amount of points even though it was the wrong offense  
20 but we dealt with that. I just wanted to make sure to clarify  
21 that.

22           Judge, we here also believe proportionality is the  
23 most important part here. While not being a cooperator like  
24 maybe some of these other defendants who have managed to  
25 escape the minimum or get extremely lenient sentences,



1 Mr. Floyd was truthful and honest with investigators from the  
2 date of his arrest. He spoke to the agent, Brian Welch, any  
3 time as directed and we believe that his honesty and  
4 truthfulness assisted in his own conviction and potentially  
5 others and we would ask the Court to consider all those things  
6 when you fashion your sentence.

7 Thank you, Judge.

8 MR. EGGERT: May I briefly, because he raised some  
9 other individuals that I had not mentioned?

10 THE COURT: You may.

11 MR. EGGERT: The people that were mentioned by  
12 Mr. Reynolds all cooperated and they were all found --  
13 individuals such as Mr. Massoni, Mr. Malen, they did not  
14 distribute methamphetamine. Mr. Allen also did not distribute  
15 methamphetamine. He provided security to Ms. Harmon. So  
16 there's differences between those individuals and Mr. Floyd.

17 Then I'll also point out as strongly as I can, while  
18 I appreciate that Mr. Floyd was honest with the police at the  
19 time that he was arrested, Mr. Floyd did not stop dealing  
20 methamphetamine. He continued to deal in methamphetamine  
21 after he spoke with the police and provided them with  
22 information. That continuation of his activity indicated a  
23 serious problem and a serious addiction to not only  
24 methamphetamine but the sale of it that only prison has broken  
25 him of. So I do think proportionality concerns -- which I

1 think are what's driving this case more than anything, just  
2 like Mr. Reynolds said -- require a sentence greater than not  
3 only what Mr. Massoni and what the others got but also greater  
4 than just a sentence of 120 months. I still think a sentence  
5 of between 180 and 144 is appropriate and I'm asking for 174.

6 Thank you.

7 MR. REYNOLDS: May I briefly, Judge?

8 Couple points that I forgot to bring up from the  
9 government's memorandum. Gregory Jones -- or was it Jeffrey  
10 Gardner's guidelines? Both Jones' and Gardner's guidelines,  
11 the bottom of the range was 292 to 365. The sentence that  
12 they received of 174 months -- or 180 months is a departure of  
13 112 months.

14 THE COURT: Variances. They were not departures.

15 MR. REYNOLDS: Variances, I'm sorry, Judge. Which  
16 is quite a bit.

17 And then Mr. Hatch, his guidelines were 240 to 260  
18 months. His sentence of 144 months is over a hundred months'  
19 difference. Here from the guidelines we're asking for a  
20 departure of 60 months -- I mean a variance. As far as they  
21 go, there are other co-defendants who have gotten  
22 significantly greater variances.

23 And other than that, Judge, you've read it all and  
24 heard it all several times now. Thank you for your time.

25 THE COURT: Does your client wish to speak to the

1 Court?

2 MR. REYNOLDS: Yes, he does, Judge.

3 THE COURT: He may do so at this time.

4 THE DEFENDANT: I was just kind of caught by  
5 surprise today and I'm pretty nervous so I'm going to go ahead  
6 and read on paper.

7 THE COURT: You may.

8 THE DEFENDANT: I'd like to start by saying that  
9 I've never spent any time in jail before this except for a  
10 couple weekends when I was younger. The last 21 months of  
11 being incarcerated has opened my eyes to how overwhelming the  
12 issues and collateral damages for society as a whole that the  
13 using, selling and adverse actions of people like myself are  
14 created due to the use of drugs and the lifestyle surrounding  
15 selling them. I have dealt with the pains of addiction issues  
16 off and on in my personal life but I really didn't comprehend  
17 the magnitude of the overall situation and I'm ashamed to have  
18 had any involvement in it. Besides affecting my immediate  
19 family and friends, I'm sure I had an impact on people's lives  
20 that I didn't even know and to those unnamed people, I am  
21 sorry.

22 My attorney and I anticipated this hearing being  
23 scheduled toward the end of June when my kids would be out of  
24 school, but due to having found out on May 11th this hearing  
25 was to take place today, I wasn't able to get my friends and

1 family members enough notice or time to be able to make  
2 arrangements to be off work or to make the long trips to be  
3 here and the kids get out of school. Even though I can't say  
4 it to them personally, it's still important to me to take the  
5 time to express and apologize to them most of all. They're  
6 the ones who stood by me and were affected most by my actions.  
7 None of them ever deserved the heartache or inconvenience this  
8 has caused in their lives, especially my children who are  
9 completely innocent bystanders. To all of them I'm very sorry  
10 and would like to thank them for all of their past and present  
11 support. I intend to make every effort to be a more reliable  
12 friend, family member and father over the next ten years.  
13 Even though I cannot change the past, I hope to try to make it  
14 a better future if they will allow me the opportunity.

15           My intentions are to go through the BOP drug  
16 program, further my education and look into an apprenticeship  
17 program, to be into a routine and hopefully add to the  
18 abilities I already possess. Hopefully it will make my  
19 transition into life and employment after incarceration  
20 easier. I have done as much research in the individual  
21 prisons that I was able to with the resources available in the  
22 county jail. To be able to participate in UNICOR, RDAP,  
23 college courses and possible apprenticeship programs, the only  
24 available prisons in my possible classification levels -- in  
25 my possible classification levels I can find in our region are

1     Forrest City, Arkansas, and Sandstone, Minnesota.

2             My mother currently resides in Arkansas. She's  
3     getting advanced in age and having more issues with her health  
4     all the time. Due to the fact I would like -- due to that  
5     fact, I would like to ask if Your Honor would make a  
6     recommendation to the Forrest City facility because she would  
7     be able to visit me due to my close proximity to her. If that  
8     is not available, I would like to try to go to Sandstone,  
9     Minnesota, because I want to make my time of incarceration as  
10    productive as possible and it seems that those facilities  
11    offer me the best opportunity for that.

12            I also am getting advanced in age and never want to  
13    be in this or any similar situation again. I have made some  
14    bad decisions and mistakes and I understand there are  
15    consequences for my involvement in this crime. I take full  
16    responsibility for that. As I said before, I just want to  
17    continue learning and growing throughout this experience and  
18    try to turn my mistakes and downfalls into life lessons and  
19    possibly even some blessings for myself and my loved ones'  
20    futures.

21            Thank you.

22            THE COURT: Any reason why this Court shouldn't  
23    impose sentence at this time?

24            MR. EGGERT: No, Your Honor.

25            MR. REYNOLDS: No, Your Honor.

1           THE COURT: It's now my responsibility, Mr. Floyd,  
2 to explain to you my thinking. Let me start with the premise  
3 that it is reflective of the curse of methamphetamines on our  
4 communities that the Congress has said someone who's committed  
5 your crime can be sentenced to as much as life in prison.  
6 While you may have had an epiphany in your last two years in  
7 jail about the impact methamphetamines have on people's lives,  
8 the rest of us knew it. We saw it. And a majority of the  
9 people elected congressmen to try to do something about it.

10           Methamphetamines destroys lives and destroys  
11 families and you were a mid-level player in the largest  
12 methamphetamine conspiracy in southwest Missouri that I have  
13 witnessed and a lot of people's lives were damaged because of  
14 that conspiracy. What I always find odd in cases like this is  
15 the people damaged by it were people just like you.

16           First of all, there were 29 defendants. Every one  
17 of their lives has been damaged. But then there's all the  
18 people you sold to, who if they became addicted to  
19 methamphetamine are not able to kick it are then now looking  
20 for a different source of supply. And then in order to pay  
21 their own methamphetamines, they're tempted to sell it  
22 themselves and then will be in a conspiracy in front me in the  
23 years ahead. It's a nasty drug and it does damage to families  
24 and people and you chose that route and that's worthy of  
25 punishment.

1 I don't doubt that your own use had something to do  
2 with it. You don't always use good judgment in that  
3 circumstance, but such is the situation. I also want to send  
4 a strong message to whoever out there has methamphetamine  
5 problems that they need to get treatment now before they too  
6 become a salesperson in part of a conspiracy and end up facing  
7 the long jail sentences our congressmen have enacted.

8 This conspiracy had drugs and guns like virtually  
9 all of them do. Now, you were not one who had the gun.  
10 That's positive for you. But it also -- need to understand  
11 that you placed yourself and your community at risk and your  
12 family because violent people sometimes are part of these  
13 conspiracies and I believe there was at least one gun incident  
14 involving Mr. Allen, is my recollection. So these people were  
15 not above violence. I think, actually, Mr. Allen was  
16 defending the drug store from people trying to steal it, is my  
17 recollection.

18 Your criminal history is not as significant as some  
19 that we see -- you're a category two -- but even the criminal  
20 history you have isn't as bad as some that we have in this  
21 conspiracy. But you run with people like that and you  
22 associate with them and you're more likely to get dragged down  
23 than you are to pull them up and you got dragged down with  
24 them in this case. But I do know that your criminal history  
25 is not quite as bad as some others.

1           I don't want to spend too much time analyzing each  
2 person that I've sentenced. Believe me, I've given long  
3 thought about every one of them and I give a lot of thought  
4 about trying to be fair one to another. When you got 29  
5 defendants, everybody's a little different. Mr. Massoni was  
6 the money man but he didn't sell the drugs. Mr. Jones had  
7 weapons but he didn't really sell the drugs. He mainly  
8 defended his sister and the drug store. Another of the couple  
9 people that I've sentenced were primarily people who ran drug  
10 houses for them, although one of them, I think it was  
11 Paluczak, kind of fell in and made some sales, too, but not as  
12 often as some others. And I started my sentencing below what  
13 the U.S. Attorney recommended. Maybe Mr. Jones was the first  
14 one I did. I'm not sure. But I did think the guidelines were  
15 incredibly, incredibly high. So I try to fit you in where you  
16 belong.

17           You do not have a cooperation agreement. Let the  
18 record be clear, you're not a cooperator. That doesn't mean  
19 you told nothing but lies but certainly don't see that you  
20 were a cooperator and don't -- sure exactly why, but in prison  
21 you may be glad you weren't because I know that's a stigma  
22 that people carry with them when they get there.

23           But if I analyze everyone and try to slot them where  
24 they are, I don't disagree with the government that you belong  
25 somewhere above Mr. Hatch and below Mr. Jones and Gardner. So



1 the question is where do I put you? I've given it some  
2 thought, considered what your attorney had to say, and knowing  
3 I have yet several more people to sentence here, here's what  
4 I'm going to do.

5 Pursuant to the Sentencing Reform Act of 1984, it's  
6 the judgment of this Court that defendant David Floyd is  
7 hereby committed to the custody of the Bureau of Prisons for  
8 162 months on Count 1 of the second superseding indictment.  
9 I'm going to place you on supervised release after release  
10 from imprisonment for five years. I do not think you have the  
11 ability to pay a fine so I'm going to waive any imposition of  
12 fine. You do have to pay a \$100 special assessment.

13 While you're on supervised release you will comply  
14 with the mandatory and standard conditions that have been  
15 adopted by the Court. In addition, you will comply with the  
16 special conditions listed in Part D, Paragraph 118 A to E of  
17 the presentence investigation report.

18 I'll point out to you that when you're released from  
19 prison, if you don't comply with the rules that I have just  
20 established -- and they'll be given to you in writing -- that  
21 you can go back to prison just for violating those rules even  
22 if they're not a crime. Please follow those rules exactly and  
23 be honest with your probation officer.

24 I'm going to recommend that you be designated to an  
25 institution for participation in the 500-hour residential

1 substance abuse treatment program and also the UNICOR program.  
2 I will also recommend that to the extent your needs as an  
3 inmate can be met, that the Bureau of Prisons consider placing  
4 you in Forrest City, Arkansas, as a top priority and to the  
5 Minnesota institution you're recommending if Forrest City is  
6 not a suitable alternative.

7           You have a right to appeal my sentence. If you want  
8 to appeal, you need to do so within 14 days. If you don't  
9 appeal within 14 days, you risk losing the right to raise  
10 certain issues. Do you understand your right of appeal?

11           THE DEFENDANT: Yes, Your Honor.

12           THE COURT: I think the government has counts to  
13 dismiss.

14           MR. EGGERT: Yes, Your Honor. At this time the  
15 government would orally move to dismiss Count 26 of the second  
16 superseding indictment. And, again, for the record, while I  
17 don't believe this defendant was charged in the original or  
18 first superseding indictment, just to make clear, any other  
19 indictments that the defendant is charged in should be  
20 dismissed as well.

21           THE COURT: Count 26 of the second superseding  
22 indictment will be dismissed and to the extent there is any  
23 other pending indictment in this court against this defendant,  
24 those counts will be dismissed.

25           Anything further?

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MR. EGGERT: No, Your Honor. Thank you.

THE COURT: Anything further, Mr. Reynolds?

MR. REYNOLDS: No, Your Honor.

THE COURT: All right. We'll be in recess.

(Court stands in recess at 1:52 p.m.)

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CERTIFICATE OF OFFICIAL REPORTER

I, Jeannine M. Rankin, Federal Official Court Reporter,  
in and for the United States District Court for the Western  
District of Missouri, Southern Division, do hereby certify  
that the foregoing is a true and correct transcript of the  
stenographically reported proceedings.

/s/ Jeannine M. Rankin

Date: 10/03/17 Jeannine M. Rankin, CCR, CSR, RPR